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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,989	11/16/2005	Bernd Siber	3489	3906

7590
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

SMITH, MATTHEW J

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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11/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/556,989	Applicant(s) SIBER ET AL.	
	Examiner Matthew J. Smith	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The claimed “cut-outs” are not described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 does not further limit claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Sakurai et al. (6300876).

Sakurai et al. disclose a fire alarm which includes a base 31; a fire alarm insert 30 connected to base; a covering cap 11; a sheet 40 located between the covering cap and the fire alarm insert to cover the fire alarm insert; and a substantially annular faceplate 20 concentrically around the covering cap and easy to remove.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson (6057778) in view of Powers (4758827).

Davidson discloses a fire alarm which includes a base 46; a fire alarm insert 21 connected to the base; a covering cap 30; a sheet 29 located between the covering cap 30 and the fire alarm insert 21 to cover the fire alarm insert; the covering cap having a cut-out 53 into which the sheet is inserted; the covering cap convex in shape; and the covering cap detachably connectable with the fire alarm insert.

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Davidson also discloses an installation set with a fire alarm which includes a base 46; a fire alarm insert 21; covering cap 30 detachably connectable to the fire alarm; a set of replaceable sheets 29; and the covering cap has a cut-out 53 into which the sheet is inserted.

This reference does not disclose the covering cap is transparent.

Powers shows a smoke detector having a transparent cover 14.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the Davidson cover transparent, as shown by Powers, in order to view the underlying structure (Powers, col. 2, lines 17-19)

Claims 4, 6-8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson in view of Powers as applied to claim 1 above, and further in view of Jameson et al. (4529976).

The combination discloses the invention substantially as claimed but not the covering cap has a mat finish, at least in some areas, the connecting means between the covering cap and the fire alarm insert are releasable detent elements or as a Velcro closure, the sheet is colored and/or has a pattern on it, the sheet is colored on both sides and/or has a pattern on both sides, different colors and/or patterns being provided for each side of the sheet, or the sheet is neutral in color and has a surface structure that can be painted in a common ceiling color.

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Jameson et al. discuss a fire alarm with a base 8; a fire alarm insert 1 connected to the base with a releasable detent 26; a covering cap 3a and a decorative sheet 35 to cover the fire alarm insert.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a detent type connector and to make the Davidson sheet 29 decorative, as discussed by Jameson et al., since these types of connectors are well known and to provide amusement, respectively.

It would have been further obvious to make the covering cap have a mat finish; the sheet colored, have a pattern, colored on both sides, have a pattern on both sides, different colors, patterns for each side of the sheet, in a neutral color, or have a surface structure that can be painted in a common ceiling color since these modifications are suggested by Jameson et al. (col. 4, lines 51-55), expected, and predictable.

Response to Arguments

Applicant's arguments, see page 10, filed 30 June 2009, with respect to the rejection of claims 1 and 11 under 35 U.S.C. 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new rejection is made in view of Davidson and Powers.

Since, the claims do not recite that the transparent cover facilitates viewing the decorative sheet, the examiner contends the structural limitations set forth are obvious over the combination. Also, the claimed cut-out feature is not specifically described in

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the specification as filed, only illustrated in the drawings. With regard to claim 9, the examiner apologizes for not advancing prosecution.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gamble (7170417) presents a decorative cover 20.

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./
Examiner, Art Unit 3635
17 November 2009